

Bill No. SB 2280

Barcode 583066

591-1917A-06

Proposed Committee Substitute by the Committee on Criminal Justice

1 A bill to be entitled

2 An act relating to high-risk offenders;

3 amending s. 322.141, F.S.; requiring

4 distinctive markings for driver's licenses and

5 identification cards issued to persons who are

6 designated as sexual predators or subject to

7 registration as sexual offenders; amending s.

8 322.212, F.S.; prohibiting the alteration of

9 sexual predator or sexual offender markings on

10 driver's licenses or identification cards, for

11 which there are criminal penalties; amending s.

12 775.21, F.S.; requiring sexual predators to

13 obtain a distinctive driver's license or

14 identification card; amending s. 943.0435,

15 F.S.; requiring sexual offenders to obtain a

16 distinctive driver's license or identification

17 card; amending s. 944.607, F.S.; requiring

18 specified offenders who are under the

19 supervision of the Department of Corrections

20 but are not incarcerated to obtain a

21 distinctive driver's license or identification

22 card; amending s. 1012.465, F.S.; amending

23 background screening requirements for certain

24 noninstructional school district employees and

25 contractors; adding noninstructional

26 contractors to those who must meet the

27 screening requirements; defining the terms

28 "noninstructional contractor," "convicted," and

29 "school grounds"; creating s. 1012.467, F.S.;

30 providing for the submission of fingerprints;

31 requiring school districts to screen results of

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1 criminal records checks; requiring the cost of
2 background screening requirements to be borne
3 by certain parties; providing a cap on fees
4 that may be charged; providing a list of
5 violations that such persons must not have
6 committed if they are to satisfy the screening
7 requirements; providing sanctions for failure
8 to meet requirements; providing grounds for
9 contesting denial of access to school grounds;
10 providing reporting requirements; providing
11 that the failure to meet requirements is a
12 misdemeanor of the first degree; allowing
13 certain educational entities to share
14 information derived from checks of criminal
15 history records; authorizing the Department of
16 Law Enforcement to adopt rules; providing
17 immunity from civil or criminal liability;
18 creating s. 1012.468, F.S.; specifying
19 exemptions for contractors; providing criteria
20 and conditions; providing that exempted
21 contractors are subject to a search of certain
22 databases that list sexual predators and sexual
23 offenders; providing consequences of a failure
24 to meet the screening requirements; prohibiting
25 school districts from conducting additional
26 criminal history checks; providing effective
27 dates.

28
29 Be It Enacted by the Legislature of the State of Florida:

30
31 Section 1. Effective August 1, 2006, section 322.141,

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1 Florida Statutes, is amended to read:

2 322.141 Color or markings of certain licenses or
3 identification cards.--

4 (1) All licenses originally issued or reissued by the
5 department to persons under the age of 21 years for the
6 operation of motor vehicles shall have markings or color which
7 shall be obviously separate and distinct from all other
8 licenses issued by the department for the operation of motor
9 vehicles.

10 (2)(a) All licenses for the operation of motor
11 vehicles originally issued or reissued by the department to
12 persons who have insulin-dependent diabetes may, at the
13 request of the applicant, have distinctive markings separate
14 and distinct from all other licenses issued by the department.

15 (b) At the time of application for original license or
16 reissue, the department shall require such proof as it deems
17 appropriate that a person has insulin-dependent diabetes.

18 (3) All licenses for the operation of motor vehicles
19 or identification cards originally issued or reissued by the
20 department to persons who are designated as sexual predators
21 under s. 775.21 or subject to registration as sexual offenders
22 under s. 943.0435 shall have on the front of the license the
23 following:

24 (a) For a person designated as a sexual predator under
25 s. 775.21, the marking "775.21, F.S."

26 (b) For a person subject to registration as a sexual
27 offender under s. 943.0435, the marking "943.0435, F.S."

28 Section 2. Effective August 15, 2006, paragraph (c) is
29 added to subsection (5) of section 322.212, Florida Statutes,
30 to read:

31 322.212 Unauthorized possession of, and other unlawful

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1 acts in relation to, driver's license or identification
2 card.--

3 (5)

4 (c) It is unlawful for any person to have in his or
5 her possession a driver's license or identification card upon
6 which the sexual predator or sexual offender markings required
7 by s. 322.141 are not displayed or have been altered.

8 Section 3. Paragraph (f) of subsection (6) of section
9 775.21, Florida Statutes, is amended to read:

10 775.21 The Florida Sexual Predators Act.--

11 (6) REGISTRATION.--

12 (f) Within 48 hours after the registration required
13 under paragraph (a) or paragraph (e), a sexual predator who is
14 not incarcerated and who resides in the community, including a
15 sexual predator under the supervision of the Department of
16 Corrections, shall register in person at a driver's license
17 office of the Department of Highway Safety and Motor Vehicles
18 and shall present proof of registration. At the driver's
19 license office the sexual predator shall:

20 1. If otherwise qualified, secure a Florida driver's
21 license, renew a Florida driver's license, or secure an
22 identification card. The sexual predator shall identify
23 himself or herself as a sexual predator who is required to
24 comply with this section, provide his or her place of
25 permanent or temporary residence, including a rural route
26 address and a post office box, and submit to the taking of a
27 photograph for use in issuing a driver's license, renewed
28 license, or identification card, and for use by the department
29 in maintaining current records of sexual predators. A post
30 office box shall not be provided in lieu of a physical
31 residential address. If the sexual predator's place of

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1 residence is a motor vehicle, trailer, mobile home, or
2 manufactured home, as defined in chapter 320, the sexual
3 predator shall also provide to the Department of Highway
4 Safety and Motor Vehicles the vehicle identification number;
5 the license tag number; the registration number; and a
6 description, including color scheme, of the motor vehicle,
7 trailer, mobile home, or manufactured home. If a sexual
8 predator's place of residence is a vessel, live-aboard vessel,
9 or houseboat, as defined in chapter 327, the sexual predator
10 shall also provide to the Department of Highway Safety and
11 Motor Vehicles the hull identification number; the
12 manufacturer's serial number; the name of the vessel,
13 live-aboard vessel, or houseboat; the registration number; and
14 a description, including color scheme, of the vessel,
15 live-aboard vessel, or houseboat.

16 2. Pay the costs assessed by the Department of Highway
17 Safety and Motor Vehicles for issuing or renewing a driver's
18 license or identification card as required by this section.
19 The driver's license or identification card issued shall
20 comply with s. 322.141(3).

21 3. Provide, upon request, any additional information
22 necessary to confirm the identity of the sexual predator,
23 including a set of fingerprints.

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25 The sheriff shall promptly provide to the department the
26 information received from the sexual predator.

27 Section 4. Subsection (3) of section 943.0435, Florida
28 Statutes, is amended to read:

29 943.0435 Sexual offenders required to register with
30 the department; penalty.--

31 (3) Within 48 hours after the report required under

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1 subsection (2), a sexual offender shall report in person at a
2 driver's license office of the Department of Highway Safety
3 and Motor Vehicles, unless a driver's license or
4 identification card that complies with the requirements of s.
5 322.141(3) was previously secured or updated under s. 944.607.

6 At the driver's license office the sexual offender shall:

7 (a) If otherwise qualified, secure a Florida driver's
8 license, renew a Florida driver's license, or secure an
9 identification card. The sexual offender shall identify
10 himself or herself as a sexual offender who is required to
11 comply with this section and shall provide proof that the
12 sexual offender reported as required in subsection (2). The
13 sexual offender shall provide any of the information specified
14 in subsection (2), if requested. The sexual offender shall
15 submit to the taking of a photograph for use in issuing a
16 driver's license, renewed license, or identification card, and
17 for use by the department in maintaining current records of
18 sexual offenders.

19 (b) Pay the costs assessed by the Department of
20 Highway Safety and Motor Vehicles for issuing or renewing a
21 driver's license or identification card as required by this
22 section. The driver's license or identification card issued
23 shall comply with s. 322.141(3).

24 (c) Provide, upon request, any additional information
25 necessary to confirm the identity of the sexual offender,
26 including a set of fingerprints.

27 Section 5. Subsection (9) of section 944.607, Florida
28 Statutes, is amended to read:

29 944.607 Notification to Department of Law Enforcement
30 of information on sexual offenders.--

31 (9) A sexual offender, as described in this section,

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1 who is under the supervision of the Department of Corrections
 2 but who is not incarcerated shall, in addition to the
 3 registration requirements provided in subsection (4), register
 4 and obtain a distinctive driver's license or identification
 5 card in the manner provided in s. 943.0435(3), (4), and (5),
 6 unless the sexual offender is a sexual predator, in which case
 7 he or she shall register and obtain a distinctive driver's
 8 license or identification card as required under s. 775.21. A
 9 sexual offender who fails to comply with the requirements of
 10 s. 943.0435 is subject to the penalties provided in s.
 11 943.0435(9).

12 Section 6. Subsection (1) of section 1012.465, Florida
 13 Statutes, is amended to read:

14 1012.465 Background screening requirements for certain
 15 noninstructional school district employees and contractors.--

16 (1) Except as provided in s. 1012.467,
 17 noninstructional school district employees or contractual
 18 personnel who are permitted access on school grounds when
 19 students are present, who have direct contact with students or
 20 who have access to or control of school funds must meet level
 21 2 screening requirements as described in s. 1012.32.

22 Contractual personnel shall include any vendor, individual, or
 23 entity under contract with a school or the school board.

24 Section 7. Section 1012.467, Florida Statutes, is
 25 created to read:

26 1012.467 Noninstructional contractors who are
 27 permitted access to school grounds when students are present;
 28 background screening requirements.--

29 (1) As used in this section, the term:

30 (a) "Noninstructional contractor" means any vendor,
 31 individual, or entity under contract with a school or with the

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1 school board who receives remuneration for services performed
2 for the school district or a school, but who is not otherwise
3 considered an employee of the school district. The term also
4 includes any employee of a contractor who performs services
5 for the school district or school under the contract and any
6 subcontractor and its employees.

7 (b) "Convicted" has the same meaning as in s.
8 943.0435.

9 (c) "School grounds" means the buildings and grounds
10 of any public prekindergarten, kindergarten, elementary
11 school, middle school, junior high school, high school, or
12 secondary school, or any combination of grades prekindergarten
13 through grade 12, together with the school district land on
14 which the buildings are located. The term does not include:

15 1. Any other facility or location where school classes
16 or activities may be located or take place;

17 2. The buildings and grounds of any public
18 prekindergarten, kindergarten, elementary school, middle
19 school, junior high school, high school, or secondary school,
20 or contiguous school district land, during any time period in
21 which students are not permitted access; or

22 3. Any building described in this paragraph during any
23 period in which it is used solely as a career or technical
24 center under part IV of chapter 1004 for postsecondary and
25 adult education.

26 (2)(a) A fingerprint-based criminal history check
27 shall be performed on the noninstructional contractors who are
28 permitted access to school grounds when students are present
29 and who do not have direct contact with students. Criminal
30 history checks shall be performed at least once every 3 years.
31 For the initial criminal history check, each noninstructional

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1 contractor who is subject to the criminal history check shall
2 file with the Department of Law Enforcement a complete set of
3 fingerprints taken by an authorized law enforcement agency or
4 an employee of a school district, a public school, or a
5 private company who is trained to take fingerprints. The
6 fingerprints shall be submitted for state processing to the
7 Department of Law Enforcement, which shall in turn submit the
8 fingerprints to the Federal Bureau of Investigation for
9 federal processing. The results of each criminal history check
10 shall be reported to the school district in which the
11 individual is seeking access. The school district shall screen
12 the results using the disqualifying offenses in paragraph (c)
13 and promptly provide the results to the shared system
14 described in subsection (7). The cost of the criminal history
15 check may be borne by the district school board, the school,
16 the contractor, or the individual. A fee that is charged by a
17 district school board for such checks may not exceed 30
18 percent of the total amount charged by the Department of Law
19 Enforcement and the Federal Bureau of Investigation.

20 (b) A noninstructional contractor who is subject to a
21 criminal history check under this section shall inform a
22 school district that he or she has completed a criminal
23 history check in another school district within the last 3
24 years. The school district shall verify the results of the
25 contractor's criminal history check using the shared system
26 described in subsection (7). The school district shall not
27 charge the contractor a fee for verifying the results of his
28 or her criminal history check.

29 (c) A noninstructional contractor for whom a criminal
30 history check is required under this section may not have been
31 convicted of any of the following offenses designated in the

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Florida Statutes, any similar offense in another jurisdiction,
or any similar offense committed in this state that has been
redesignated from a former provision of the Florida Statutes
to one of the following offenses:

1. Any offense listed in s. 943.0435(1)(a)1., relating
to the registration of an individual as a sexual offender.

2. Section 393.135, relating to sexual misconduct with
certain developmentally disabled clients and the reporting of
such sexual misconduct.

3. Section 394.4593, relating to sexual misconduct
with certain mental health patients and the reporting of such
sexual misconduct.

4. Section 775.30, relating to terrorism.

5. Section 782.04, relating to murder.

6. Section 787.01, relating to kidnapping.

7. Any offense under chapter 800, relating to lewdness
and indecent exposure.

8. Section 826.04, relating to incest.

9. Section 827.03, relating to child abuse, aggravated
child abuse, or neglect of a child.

(3) If it is found that a noninstructional contractor
has been convicted of any of the offenses listed in paragraph
(c), the individual shall be immediately suspended from having
access to school grounds and shall remain suspended until
final resolution of any appeals.

(4) A noninstructional contractor who has been
convicted of any of the offenses listed in paragraph (2)(c)
may not be permitted on school grounds when students are
present, unless the contractor has received a full pardon or
has had his or her civil rights restored.

(5) If a school district has reasonable cause to

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1 believe that grounds exist for the denial of a contractor's
2 access to school grounds when students are present, it shall
3 notify the contractor in writing, stating the specific record
4 that indicates noncompliance with the standards set forth in
5 this section. It is the responsibility of the affected
6 contractor to contest his or her denial. The only basis for
7 contesting the denial is proof of mistaken identity.

8 (6) Each contractor who is subject to the requirements
9 of this section shall agree to inform his or her employer or
10 the party to whom he or she is under contract and the school
11 district within 48 hours if he or she is charged with any of
12 the disqualifying offenses in paragraph (2)(c). A contractor
13 who willfully fails to comply with this subsection commits a
14 misdemeanor of the first degree, punishable as provided in s.
15 775.082 or s. 775.083.

16 (7)(a) The Department of Law Enforcement shall
17 implement a system that allows for the results of a criminal
18 history check provided to a school district to be shared with
19 other school districts through a secure Internet website or
20 other secure electronic means. The Department of Law
21 Enforcement may adopt rules under ss. 120.536(1) and 120.54 to
22 implement this provision.

23 (b) An employee of a school district, a charter
24 school, a lab school, a charter lab school, or the Florida
25 School for the Deaf and the Blind who requests or shares
26 criminal history information under this section is immune from
27 civil or criminal liability for any good-faith conduct that
28 occurs during the performance of and within the scope of
29 responsibilities related to the record check.

30 Section 8. Section 1012.468, Florida Statutes, is
31 created to read:

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1 1012.468 Exceptions to certain fingerprinting and
2 criminal history checks.--

3 (1) As used in this section, the term
4 "noninstructional contractor" means any vendor, individual, or
5 entity under contract with a school or with the school board
6 who receives remuneration for services performed for the
7 school district or a school, but who is not otherwise
8 considered an employee of the school district. The term also
9 includes any employee of a contractor who performs services
10 for the school district or school under the contract and any
11 subcontractor and its employees.

12 (2) A district school board shall exempt from the
13 screening requirements set forth in ss. 1012.465 and 1012.467
14 the following noninstructional contractors:

15 (a)1. Noninstructional contractors who are under the
16 direct supervision of a school district employee or contractor
17 who has had a criminal history check and meets the screening
18 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
19 1012.56. For purposes of this paragraph, the term "direct
20 supervision" means that a school district employee or
21 contractor is physically present with a noninstructional
22 contractor when the contractor has access to a student and the
23 access remains in the school district employee's or the
24 contractor's line of sight.

25 2. If a noninstructional contractor who is exempt
26 under this subsection no longer is under direct supervision as
27 specified in subparagraph 1., the contractor is not permitted
28 on school grounds when students are present until the
29 contractor meets the screening requirements in s. 1012.465 or
30 s. 1012.467.

31 (b) Noninstructional contractors who are required by

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law to undergo a level 2 background screening pursuant to s. 435.04 for licensure, certification, employment, or other purposes and who submit evidence of meeting the following criteria:

1. The contractor meets the screening standards in s. 435.04;

2. The contractor's license or certificate is active and in good standing, if the contractor is a licensee or certificateholder; and

3. The contractor completed the criminal history check within the 5 years prior to seeking access to school grounds when students are present.

(c) A law enforcement officer, as defined in s. 943.10, who is assigned or dispatched to school grounds by his or her employer.

(3)(a) A noninstructional contractor who is exempt under this section from the screening requirements set forth in s. 1012.465 or s. 1012.467 is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under s. 943.043 and the national sex offender public registry maintained by the United States Department of Justice. The school district shall conduct the search required under this subsection.

(b) A noninstructional contractor who is identified as a sexual predator or sexual offender in the registry search required in paragraph (a) is not permitted on school grounds when students are present.

(4) A school district may not subject a contractor who meets the requirements in subsection (2) to an additional

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1 criminal history check. Upon submission of evidence and
 2 verification by the school district, the school district must
 3 accept the results of the criminal history check for the
 4 contractor.

5 Section 9. Except as otherwise expressly provided in
 6 this act, this act shall take effect July 1, 2006.

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